

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
Roanoke Division

JANE DOE,

Plaintiff,

v.

Case No. 7:21-cv-00306
Judge Elizabeth K. Dillon

VIRGINIA POLYTECHNIC
INSTITUTE AND STATE
UNIVERSITY, TIMOTHY SANDS,
and KATHRYN POLIDORO,

Defendants.

**DEFENDANTS' MEMORANDUM IN SUPPORT OF THEIR MOTION TO
EXTEND TIME TO RESPOND TO THE COMPLAINT
AND MOTON FOR A PRELIMINARY INJUNCTION**

Defendants Virginia Polytechnic Institute and State University, Timothy Sands, and Kathryn Polidoro (collectively "Virginia Tech" or "Defendants") file this Memorandum in Support of their Motion to Extend Time to Respond to the Complaint and Motion for a Preliminary Injunction. Defendants move pursuant to Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure for an order extending the time to respond to Plaintiff's Complaint (ECF No. 1) and Motion for a Preliminary Injunction (ECF No. 3). Defendants' current deadline to respond is June 9, 2021.

Brief Statement of the Case

Plaintiff filed a 26-page complaint (ECF No. 1) under a pseudonym that alleges civil rights and Title IX violations against Defendants. In addition, Plaintiff

filed a Motion for a Preliminary Injunction (ECF No. 3) and Motion for Leave to Proceed Under a Pseudonym (ECF No. 2). While requesting a pseudonym for herself, Plaintiff did not hesitate to name non-parties by name and make allegations about very personal behavior, which led to a non-party filing a Third-Party Motion to Seal the Complaint and Motion for Preliminary Injunction. (ECF No. 6). This Court granted that motion and ordered the filings sealed until a hearing could be held. (ECF No. 7). Defendants have noted their appearance and plan to file in opposition to the pseudonym motion. No hearings have been scheduled on any motions.

Brief Argument

Pursuant to Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure, this Court may extend the time to respond for “good cause . . . with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires.” Courts have great latitude in determining “good cause.” “The question of what constitutes ‘good cause’ necessarily is determined on a case-by-case basis within the discretion of the district court, courts have declined to give it a concrete definition.” *Scott v. Maryland State Dep't of Lab.*, 673 F. App'x 299, 306 (4th Cir. 2016).

Defendants argue that given the state of the Complaint and Motion for a Temporary Injunction and this Court's order sealing both, Defendants cannot sufficiently respond to either until the Court determines whether the filings will remain sealed or direct that they be amended. Otherwise, Defendants' responses

may have to be sealed in order to comply with this Court's order and then later amended. In addition, should this Court deny Plaintiff's pseudonym motion, Plaintiff may choose not to proceed or may amend.

WHEREFORE, Defendants assert that good cause exists to grant its motion and extend the time for Defendants to respond to the Complaint and Motion for a Preliminary Injunction until after this Court has heard and ruled on the pending motions to seal and for leave to proceed under a pseudonym.

VIRGINIA POLYTECHNIC INSTITUTE
AND STATE UNIVERSITY, TIMOTHY
SANDS, and KATHRYN POLIDORO

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CERTIFICATE OF SERVICE

I hereby certify that, on this 4th day of June, 2021, the foregoing DEFENDANTS' MEMORANDUM IN SUPPORT OF THEIR MOTION TO EXTEND TIME TO RESPOND TO THE COMPLAINT AND MOTON FOR A PRELIMINARY INJUNCTION was filed electronically with the Clerk of Court using the CM/ECF system, which will send notification of such filing (NEF) to counsel of record.

s/ M. Hudson McClanahan

M. Hudson McClanahan